

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN RE:

SANDRA L. MANNING,
Debtor.

CASE NO. BK 08-83113
CHAPTER 13

**MOTION FOR RELIEF
FROM AUTOMATIC STAY**

COMES NOW U.S. Bank, N.A., its Successors and/or Assigns (hereinafter "U.S. Bank") a secured creditor of Debtor Sandra L. Manning, and hereby moves the Court for an Order granting relief from the Automatic Stay, pursuant to 11 U.S.C. § 362(d)(1), and in support of said Motion shows to the Court as follows:

1. That Debtor filed her Petition for Relief under Chapter 13 of the United States Bankruptcy Code on December 3, 2008.
2. That the Court has jurisdiction over this matter pursuant to 11 U.S.C. §362.
3. That on or about August 1, 2007, Debtor executed and delivered her Note in writing to First National Bank of Omaha in the original principal amount of \$63,000.00 plus interest as it accrues at the rate of 6.34% per annum. A copy of said Note is attached hereto and marked as Exhibit "A".
4. That as security for said Note, on or about August 1, 2007, Debtor executed and delivered to First National Bank of Omaha as Beneficiary, and U.S. Bank Trust Company a National Association as Trustee, in writing her Deed of Trust wherein Debtor conveyed the following described real property commonly known as 4901 South 39th Street, Omaha, Nebraska, and legally described as follows:

THE NORTH 82 FEET OF LOTS 1 AND 2, BLOCK 9, BURLINGTON
SQUARE, AN ADDITION TO THE CITY OF OMAHA, AS
SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY,
NEBRASKA.

A copy of said Deed of Trust is attached hereto and marked as Exhibit "B".

5. That the Deed of Trust was assigned by Assignment executed September 14, 2007, from First National Bank of Omaha in favor of U.S. Bank. A copy of said Assignment is attached hereto and marked as Exhibit "C".
6. That the Debtor's Chapter 13 Plan generally provides for payment of U.S. Bank's claim by paying the pre-Petition arrearage through her Chapter 13 Plan and by paying the regular monthly mortgage payments directly to U.S. Bank as these payments ordinarily come due beginning with the first due date after the case is filed.
7. That the Debtor's Chapter 13 Plan has not been confirmed by the Court.

8. That the Debtor has defaulted under the terms of her Chapter 13 Plan by failing to make her post-Petition payments directly to U.S. Bank for the months of January 2009 through March 2009, in the total sum of \$1,942.82, plus attorney fees and costs incurred in filing this Motion.

9. That the total unpaid principal balance now due and owing under the terms of said Note and Deed of Trust is \$62,642.81 as of March 26, 2009.

10. That due to the Debtor's failure to make her post-Petition payments directly to U.S. Bank for the months of January 2009 through March 2009, Debtor is in violation of her Chapter 13 Plan, and U.S. Bank is entitled to relief from the Automatic Stay pursuant to 11 U.S.C. §362(d)(1).

11. That U.S. Bank requests that this Court waive the 10-day stay set forth in Bankruptcy Rule 4001(a)(3).

WHEREFORE, U.S. Bank, N.A., its Successors and/or Assigns, a secured creditor of Debtor Sandra L. Manning moves the Court for an Order granting relief from the Automatic Stay pursuant to 11 U.S.C. § 362(d)(1), to allow it to foreclose its security interest in the real estate commonly known as 4901 South 39th Street, Omaha, Nebraska, and legally described as follows:

THE NORTH 82 FEET OF LOTS 1 AND 2, BLOCK 9, BURLINGTON
SQUARE, AN ADDITION TO THE CITY OF OMAHA, AS
SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY,
NEBRASKA,

to join all necessary parties, to waive the 10-day stay set forth in Bankruptcy Rule 4001(a)(3) and for such other and further relief as the Court deems just and equitable

DATED this 27th day of March, 2009

U.S. BANK, N.A., its Successors and/or Assigns,
A Secured Creditor,

By: /s/ Matthew E. Eck
For: LOCHER PAVELKA DOSTAL
BRADDY & HAMMES, LLC
200 The Omaha Club
2002 Douglas Street
Omaha, Nebraska 68102
Phone: (402) 898-7000
Fax: (402) 898-7130
Matthew E. Eck

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2009, I electronically filed the foregoing Motion for Relief from the Automatic Stay with the Clerk of the United States Bankruptcy Court for the District of Nebraska using the CM/ECF system which sent notification of such filing by electronic mail to Wesley H. Bain, Jr., Debtor's Attorney; Kathleen Laughlin, Chapter 13 Trustee; and Patricia Fahey, U.S. Trustee, and I hereby certify that I have mailed by United States Mail, postage prepaid, the foregoing to the following non CM/ECF participant:

DEBTOR

Sandra L. Manning
4901 South 39th Street
Omaha, Nebraska 68107

/s/ Kim Donnar